

## NURSE PRACTICE ACT

### SUBCHAPTER 1 – GENERAL PROVISIONS

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#### **17-87-101. License required – Purpose.**

(a) In order to safeguard life and health, any person practicing or offering to practice nursing for compensation shall be required to submit evidence that he or she is qualified to so practice and shall be licensed as provided in this chapter:

- (1) Professional nursing;
- (2) Advanced practice registered nursing;
- (3) Registered practitioner nursing;
- (4) Practical nursing; or
- (5) Psychiatric technician nursing.

(b) It shall be unlawful for any person not licensed by the Board:

(1) To practice or offer to practice professional nursing, advanced practice nursing, registered practitioner nursing, practical nursing, or psychiatric technician nursing; or

(2) To use any sign, card, or device to indicate that the person is a professional registered nurse, an advanced practice registered nurse, a registered nurse practitioner, a licensed practical nurse, or a licensed psychiatric technician nurse.

#### **17-87-102. Definitions.**

As used in this chapter:

(1) “Board” means the Arkansas State Board of Nursing;

(2) “Collaborative practice agreement” means a written plan that identifies a physician who agrees to collaborate with an advanced practice registered nurse in the joint management of the health care of the advanced practice registered nurse’s patients, and outlines procedures for consultation with or referral to the collaborating physician or other health care professionals as indicated by a patient’s health care needs;

(3) “Consulting physician” means a physician licensed under the Arkansas Medical Practices Act, §§ 17-95-201 – 17-95-207, 17-95-301 – 17-95-305, and 17-95-401 – 17-95-411, with obstetrical privileges in a hospital, who has agreed to practice in consultation with a certified nurse midwife; and

(4)(A) “Practice of advanced practice registered nursing” means the delivery of health care services for compensation by professional nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that certifies nurses for advanced practice roles as certified nurse practitioners, certified nurse anesthetists, certified nurse midwives, and clinical nurse specialists.

(B)(i) “Practice of certified nurse practitioner nursing” means the performance for compensation of nursing skills by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skills in the delivery of nursing services.

(ii) “Practice of certified registered nurse anesthesia” means the performance for compensation of advanced nursing skills relevant to the administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia. A certified registered nurse anesthetist may order nurses, within their scope of practice, to administer drugs preoperatively and postoperatively in connection with an anesthetic or other operative or invasive procedure, or both, that will be or has been provided.

(iii) “Practice of clinical nurse specialist nursing” means the performance for compensation of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice;

(iv) “Practice of certified nurse midwifery” means the performance for compensation of nursing skills relevant to the management of women’s health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.

(5) “Practice of practical nursing” means the performance for compensation of acts involving the care of the ill,

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injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the Board under the direction of a registered professional nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, which acts do not require the substantial specialized skill, judgment and knowledge required in professional nursing;

(6) "Practice of professional nursing" means the performance for compensation of any acts involving:

(A) The observation, care, and counsel of the ill, injured, or infirm;

(B) The maintenance of health or prevention of illness of others;

(C) The supervision and teaching of other personnel;

(D) The delegation of certain nursing practices to other personnel as set forth in regulations established by the Board;

or

(E) The administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat in accordance with state law where such acts require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences;

(7) "Practice of psychiatric technician nursing" means the performance for compensation of acts involving the care of the physically and mentally ill, retarded, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the Board, and the carrying out of medical orders under the direction of a registered professional nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, where such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing;

(8)(A) "Practice of registered nurse practitioner nursing" means the delivery of health care services for compensation in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician.

(B) Nurses shall be authorized to engage in activities as recognized by the nursing profession and as authorized by the Board.

(C) Nothing in this subdivision (8) is to be deemed to limit a registered nurse practitioner from engaging in those activities which normally constitute the practice of nursing, or those which may be performed by persons without the necessity of the license to practice medicine.

### **17-87-103. Exceptions.**

This chapter does not prohibit:

(1) The furnishing of nursing assistance in an emergency;

(2) The practice of nursing that is incidental to their program of study by students enrolled in nursing education programs approved by the Board;

(3) The practice of any legally qualified nurse of another state who is employed by the United States Government or any bureau, division, or agency while in the discharge of his or her official duties in installations where jurisdiction has been ceded by the State of Arkansas;

(4) The practice of any legally qualified and licensed nurse of another state, territory, or foreign country whose responsibilities include transporting patients into, out of, or through this state while actively engaged in patient transport, that does not exceed forty-eight (48) hours in this state;

(5) Nursing or care of the sick, when done in connection with the practice of the religious tenets of any church by its adherents;

(6) The care of the sick when done in accordance with the practice of religious principles or tenets of any well-recognized church or denomination that relies upon prayer or spiritual means of healing;

(7) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a graduate nurse anesthetist awaiting certification results while holding a temporary permit;

(8) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a registered nurse who is enrolled as a bona fide student pursuing a course in a nurse anesthesia school that is approved by a nationally recognized accrediting body and whose graduates are acceptable for certification by a nationally recognized certifying body, provided the giving or administering of the anesthetics is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;

(9) Hospital-employed professional paramedics from administering medication for diagnostic procedures under the direction of a physician;

(10) The prescription and administration of drugs, medicines, or therapeutic devices in the presence of and under the

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supervision of an advanced practice registered nurse holding a certificate of prescriptive authority, a licensed physician, or licensed dentist by a registered nurse who is enrolled as a student in an advanced pharmacology course, provided the prescription or administration of drugs or medicines, or both, is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;

- (11)(A) The administration of Glucagon to a student who is suffering from diabetes by trained volunteer school personnel designated as care providers in a plan developed under Section 504 of the Rehabilitation Act of 1973, as it existed on July 1, 2011, who have been trained by a licensed nurse employed by a school district or other healthcare professional to administer Glucagon to a child with diabetes in an emergency situation.
  - (B)
    - (i) A licensed nurse employed by a school district or other healthcare professional shall annually train volunteer school personnel designated as care providers in a plan developed under Section 501 of the Rehabilitation Act of 1973, as it existed on July 1, 2011, to administer Glucagon to a student with diabetes.
    - (ii) The parent or guardian of a student with diabetes shall sign an authorization to allow the administration of Glucagon to the student by volunteer school personnel designated as care providers.
    - (iii) The school district shall maintain a copy of the plan developed under Section 501 of the Rehabilitation Act of 1973, as it existed on July 1, 2011, a list of volunteer school personnel who are designated as care providers and trained to administer Glucagon, and a copy of the parent's or guardian's signed authorization.
  - (C) A school district, school district employee, or an agent of a school district, including a healthcare professional who trained volunteer school personnel designated as care providers, shall not be liable for any damages resulting from his or her actions or inactions under this section.
  - (D) The Board of Nursing and the State Board of Education shall promulgate rules necessary to administer subdivision (11) of this section
- (12)(A) Health maintenance activities by a designated care aide for a:
- (i) Competent adult at the direction of the adult; or
  - (ii) Minor child or incompetent adult at the direction of a caretaker.
- (B) As used in this section:
- (i) "Caretaker" means a person who is:
    - (a) Directly and personally involved in providing care for a minor child or incompetent adult; and
    - (b) The parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care under subdivision (12) (B) (i) (a) of this section;
  - (ii) "Competent adult" means an individual who:
    - (a) Is eighteen (18) years of age or older; and
    - (b) Has the capability and capacity to make an informed decision; and
  - (iii) "Health maintenance activities" means activities that:
    - (a) Enable a minor child or adult to live in his or her home; and
    - (b) Are beyond activities of daily living that:
      - (1) The minor child or adult is unable to perform for himself or herself; and
      - (2) The attending physician, advanced practice registered nurse, or registered nurse determines can be safely performed in the minor child's or adult's home by a designated care aide under the direction of a competent adult or caretaker.
- (C) As used in this section, "home" does not include:
- (i) A nursing home;
  - (ii) An assisted living facility;
  - (iii) A residential care facility;
  - (iv) An intermediate care facility; or
  - (v) A hospice care facility.
- (D) The Arkansas State Board of Nursing with the input of the Governor's Home Health Care Service Agency Advisory Council, the Arkansas Health Care Association, and the Arkansas Residential Assisted Living Association shall promulgate rules specifying which health maintenance activities are not exempted under this subdivision (12) and the minimal qualifications required of the designated care aide.

### **17-87-104. Penalty.**

- (a)(1) It shall be a misdemeanor for any person to:
  - (A) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record, or aid or abet therein;
  - (B) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;
  - (C) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing as defined by this chapter unless licensed by the Arkansas State Board of Nursing to do so;
  - (D) Use in connection with his or her name any of the following titles, names, or initials, if the user is not properly licensed under this chapter:
    - (i) Nurse;
    - (ii) Registered nurse or R.N.;
    - (iii) Advanced practice nurse, advanced practice registered nurse, A.P.N., or A.P.R.N. or any of the following:
      - (a) Advanced registered nurse practitioner, certified nurse practitioner; A.R.N.P., A.N.P., C.N.P., or;
      - (b) Nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or C.R.N.A.;
      - (c) Nurse midwife, certified nurse midwife, licensed nurse midwife, C.N.M., or L.N.M.; or
      - (d) Clinical nurse specialist or C.N.S.;
    - (iv) Registered nurse practitioner, N.P., or R.N.P.;
    - (v) Licensed practical nurse, practical nurse, or L.P.N.;
    - (vi) Licensed psychiatric technician nurse, psychiatric technician nurse, L.P.T.N., or P.T.N.; or
    - (vii) Any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter;
  - (E) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing during the time his or her license shall be suspended;
  - (F) Conduct a nursing education program for the preparation of professional nurses, advanced practice registered nurses, nurse practitioners, practical nurses, or psychiatric technician nurses unless the program has been approved by the Board;
  - (G) Prescribe any drug or medicine as authorized by this chapter unless certified by the Board as having prescriptive authority, except that a certified registered nurse anesthetist shall not be required to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicines necessary for the care; or
  - (H) Otherwise violate any provisions of this chapter.
- (2) Such misdemeanor shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500). Each subsequent offense shall be punishable by fine or by imprisonment of not more than thirty (30) days, or by both fine and imprisonment.
- (b)(1) After providing notice and a hearing, the Board may levy civil penalties in an amount not to exceed one thousand dollars (\$1000) for each violation against those individuals or entities found to be in violation of this chapter or regulations promulgated thereunder.
  - (2) Each day of violation shall be a separate offense.
  - (3) These penalties shall be in addition to other penalties which may be imposed by the Board pursuant to this chapter.
  - (4) Unless the penalty assessed under this subsection is paid within fifteen (15) calendar days following the date for an appeal from the order, the Board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

### **17-87-105. Injunction.**

- (a) The Circuit Court of Pulaski County is vested with jurisdiction and power to enjoin the unlawful practice of nursing in any county of the State of Arkansas in a proceeding by the Board or by any member thereof or by any citizen in this state.
- (b) The issuance of any injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter. The remedy of injunction is to be in addition to liability for criminal prosecution.

## 17-87-106. Construction of chapter.

Nothing in this chapter relating to the practice of advanced practice nursing shall be construed to limit or alter the scope of practice of any registered nurse practitioner or any other licensed nurse.

## SUBCHAPTER 2 – ARKANSAS STATE BOARD OF NURSING

### SECTION.

17-87-201. Creation - Members.  
17-87-202. Organization and proceedings.  
17-87-203. Powers and duties.  
17-87-204. Deposit of funds.

### SECTION.

17-87-205. Prescriptive Authority Advisory Committee  
17-87-206. Subpoenas and subpoenas duces tecum.  
17-87-207. Continuing Education

## 17-87-201. Creation – Members.

- (a) There is created the Arkansas State Board of Nursing, to be composed of thirteen (13) members to be appointed by the Governor for terms of four (4) years, subject to confirmation by the Senate.
- (b)(1) Six (6) members shall be registered nurses whose highest level of educational preparation shall be as follows:
  - (A) Two (2) diploma-school graduates;
  - (B) Two (2) associate degree graduates; and
  - (C) Two (2) baccalaureate degree or post-baccalaureate degree graduates.
- (2) Each registered nurse member of the Board shall have the following qualifications:
  - (A) Be an Arkansas resident;
  - (B) Have at least five (5) years of successful experience as a registered nurse in nursing practice, administration, or teaching;
  - (C) Be licensed in Arkansas as a registered nurse; and
  - (D) Have been employed as a registered nurse for at least three (3) years immediately preceding appointment, two (2) of which shall have been in Arkansas.
- (c)(1) One (1) member shall be a licensed advanced practice registered nurse.
- (2) The licensed advanced practice registered nurse Board member shall have the following qualifications:
  - (A) Be an Arkansas resident;
  - (B) Have at least five (5) years of experience as an advanced practice registered nurse;
  - (C) Be licensed in Arkansas as an advanced practice registered nurse;
  - (D) Have been actively engaged in nursing for at least three (3) years immediately preceding appointment, two (2) of which shall have been in Arkansas; and
  - (E) Have a certificate granting prescriptive authority.
- (d)(1) Four (4) members shall be licensed practical nurses or licensed psychiatric technician nurses.
- (2) Each licensed practical nurse Board member or licensed psychiatric technician nurse Board member shall have the following qualifications:
  - (A) Be an Arkansas resident;
  - (B) Have at least five (5) years of successful experience as a practical nurse or psychiatric technician nurse or as a teacher in an educational program to prepare practitioners of nursing;
  - (C) Be licensed in Arkansas as a licensed practical nurse or licensed psychiatric technician nurse; and
  - (D) Have been employed as a licensed practical nurse or as a licensed psychiatric technician nurse for at least three (3) years immediately preceding appointment, two (2) of which shall have been in Arkansas.
- (e) One (1) member shall be a lay person representing consumers of health care services.
- (f) One (1) member of the Board shall not be actively engaged in or retired from the profession of nursing, shall be sixty (60) years of age or older, and shall be the representative of the elderly. This member shall be appointed from the state at large, subject to confirmation by the Senate, and shall be a full voting member but shall not participate in the grading of examinations.
- (g) The consumer representative and the representative of the elderly positions may not be filled by the same person.